

Use of Full-Time Personnel in Domestic Response

Col Chris Burckle

T32 ARNG AGR Soldiers

NGB-ARH Memorandum (5 Sep 06) "Policy for T32 Full-Time National Guard Duty (AGR) Soldiers Performing State Active Duty (SAD)*"

*This memorandum updates NGR 600-5, chapter 3-3

AGR Soldiers can respond to an emergency situation when necessary to save human life, prevent immediate human suffering, or lessen major property damage or destruction

HOWEVER: upon stabilization, i.e. within a reasonable time period, those individually activated AGR Soldiers should be replaced with a traditional Soldier. This reasonable time period has been directed by CNGB as part of the NGB emergency doctrine

T32 ARNG AGR Soldiers may support SAD missions in an AGR status while performing their statutory duties codified under T10 USC and within the capacity of the para and line number of their assigned unit when one of the following conditions exists:

- The Governor declares a state of emergency
- The Governor activates the AGR Soldier's MTOE/TDA unit of assignment
- ARNG equipment or property is loaned or leased in support of a SAD mission and AGR Soldiers are required to transport, operate, maintain, or secure equipment

T32 AGR Airmen

ANGI 36-101 “Air National Guard Active Guard Reserve (AGR) Program”

7.10. Emergency Domestic and Immediate Response Situations

7.10.2. Immediate Response Situations. Immediate Response is defined by DoDD 3025.15, paragraph 4.7.1. as any form of immediate action taken by a DoD Component or military commander to save lives, prevent human suffering, or mitigate great property damage under imminently serious conditions when time does not permit approval from higher headquarters

7.10.2.1. AGRs may support an Immediate Response situation. Contingency situations of an emergency nature, where AGR Airmen are employed under the immediate response doctrine, shall be reported to the Chief, National Guard Bureau (CNGB) as soon as practicable to permit reassessment of whether there remains a necessity to employ them under that authority.

7.10.2.2. If the Immediate Response activities of the AGR Airmen have not yet ended, this reassessment shall occur not later than 72 hours after these AGRs were employed

7.10.2.3. In Immediate Response situations, maximum efforts must be made to replace AGR Airmen with traditional guardsmen in an appropriate duty status.

T32 AGR Soldiers /Airmen

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Annex E Personnel and Human Resources

AGR personnel normally may perform only such tasks as are directly related to their duty assignment_

For compelling reasons, AGR personnel may be required to perform tasks not directly related to their duty assignment. Request to use AGR personnel in this way must be approved in advance by NGB-ARO-OM.* not sure this is still true

AGR Personnel may be required to perform specific missions related to immediate response actions to save life and limb. This duty should not be extended for more than 72 hours, unless directed by the TAG for a specific operational need

T32 Military Technicians

Title 32 Chapter 7 section 709. Technicians: employment, use, status

(a) Under regulations prescribed by the Secretary of the Army or the Secretary of the Air Force, as the case may be, and subject to subsections (b) and (c), persons may be employed as technicians in— (1) the organizing, administering, instructing, or training of the National Guard;

(2) the maintenance and repair of supplies issued to the National Guard or the armed forces; and

(3) the performance of the following additional duties to the extent that the performance of those duties does not interfere with the performance of the duties described by paragraphs (1) and (2):

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Annex E Personnel and Human Resources

Military Technicians (MT): Military Technicians are potentially available for assignment to perform emergency or emergency related duty. A MT may perform SAD as an individual or as a member of a unit that has been mobilized to support SAD operations.

MTs performing emergency duty that is not within the scope of normal technician duties (for example, security, transportation, rescue, and debris removal missions) will be placed on SAD orders and complete an OPM Form 71 (Request for Leave or Approved Absence) and present it to their technician supervisor, indicating the type of leave being utilized while on SAD.

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Annex E Personnel and Human Resources

The MT put on SAD will be required to choose one of the following options regarding leave from their technician position:

- Accrued Annual Leave
- Accrued Compensatory Leave
- Leave Without Pay (LWOP)
- Military leave under 5 USC 6323 (b) 22 days (176 hours)(formerly known as “Law Enforcement Leave”)

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Annex E Personnel and Human Resources

A combination of the different leave statuses may be utilized. However; the use of military leave to perform SAD is not authorized

Leave is not charged to technicians on holidays and normal non-duty days regardless of the type of leave status

~~MTs performing emergency related duties within the scope of normal technician duties, regardless of location (for example, a mechanic performing generator support in the field) have the opportunity to choose from the following options:~~

A. Remain in technician status. Overtime hours will be credited as Compensatory time earned.

-When emergency operations extend into regular days off and the duty is performed at the site of emergency operations, the technician will be placed on SAD orders for that period to avoid excessive accrual of Compensatory time.

-It will be the MT's responsibility to contact his or her civilian supervisor to inform him/her when compensatory time is being earned. If the technician has been directed to stay in the immediate area for more than a 24-hour period and there are adequate facilities to sleep, Compensatory time for all hours worked over the normal duty day, minus no more than 8 hours for sleep will be credited.

B. Be placed on SAD orders and follow the technician leave instructions

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Annex E Personnel and Human Resources

Military leave under 5 USC 6323 (b) 22 days (176 hours)The following rules apply:

Rule #1 - If the military pay is greater than the technician pay, then the gross technician pay is collected.

Rule #2 - If the military pay is less than the technician pay, then the difference between the two is paid to the technician and the remainder is offset or will be collected

LEL is authorized without loss or reduction of leave to which otherwise entitled for the purpose of providing aid to enforce the law (5 USC 6323(c)). Based on congressional intent, the statute also includes situations where the Guard does not actually perform “Law Enforcement” duties while assisting authorities. For example:

- Participation in rescue or protective work with fires, floods, or other natural phenomena
- Participation in rescue or protective work with fires, floods, or other natural phenom
- Dropping feed to cattle during a blizzard
- Assisting State Officials during refugee processing
- Providing support services during a strike.

Domestic Response for Full-Timers can be tricky – just remember...put them in an appropriate status for what they are doing as soon as possible and we can always sort out the “time card issues” once the emergency is over

References:

AGR:

- ANG ARH Memorandum dated 5 Sep 06 “Policy for Title 32 ARNG Full-Time National Guard Duty (AGR) Soldiers Performing State Active Duty (SAD)”
- Title 10, USC Section 12310
- Title 32 USC Section 502 (f)
- AR 135-18 “The AGR Program” 1 Nov 2004
- NGR 600-5 “The AGR Program” 20 Feb 1990
- ANGI 36-101 “ANG AGR Program” 4 Jun 2010

Technician:

- USC Title 32 Chapter 7, section 709
- TPR 630 “Absence and Leave Program”
- NGB-TN Memorandum dated 4 Feb 2008 “Assignment of Military Training Duties to Title 32 National Guard Technicians (TN-08-03)”

JOINT:

- JFHQ-UT Joint Operations Plan 11-001, Annex E Personnel and Human Resources